**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

**INCOME TAX APPLICATION NO.50 OF 1999**

The Commissioner of Income Tax, Mumbai .. Petitioner
V/s
Franco Indian Pharmaceuticals Ltd. .. Respondent

WITH
**INCOME TAX APPLICATION NO.51 OF 1999**

The Commissioner of Income Tax, Mumbai .. Petitioner
V/s
Franco Indian Pharmaceuticals Ltd. .. Respondent

Mr.A.Kotangale with Mr.A.S.Rao for the Petitioner.
Mr.S.S.Shetty for the Respondent.

**CORAM : DR.S.RADHAKRISHNAN &**
**J.P.DEVADHAR, JJ.**

**DATE : 5th March, 2007.**

**JUDGMENT: (PER : DR.S.RADHAKRISHNAN,J.)**

1. Heard the learned Counsel for the parties. The Application No.50/1999 pertains to the Assessment Year 1988-89 and the Application No.51/1999 pertains to the Assessment Year 1987-1988. Both these applications were admitted on 22.4.1999 on the following substantial question of law:-

> "Whether on the facts and in the circumstances of the case, the Honourable ITAT is right in law in holding that the status of the assessee company for the relevant A.Y. is non trading/industrial for purpose of rate of tax."

2. The Tribunal has relied upon its own decision of the earlier year, and the Revenue has accepted the decision of the Tribunal of the earlier year. In view thereof, these matters require consideration, and hence, the "statement of the case" in each application is called for.

(J.P.DEVADHAR, J.) (DR.S.RADHAKRISHNAN,J.)